



Entry level qualifications: removing unnecessary regulations

Consultation



August 2016

Ofqual/16/6080

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About this consultation

1. We are seeking views on our proposal to remove the regulations that only apply to qualifications at entry level in the Regulated Qualifications Framework.

Summary of our proposals

We propose to remove the regulations in 'Criteria for entry level qualifications', published in 2011 and originally put in place by our predecessor QCA.

We believe these regulatory requirements are not necessary for the effective regulation of qualifications at entry level and represent an unnecessary regulatory burden. They duplicate many of the requirements in other regulations and, where they do add further regulatory requirements, we judge they might constrain the most effective design of qualifications, preventing them from best meeting users' needs. The additional requirements set out in 'Criteria for entry level qualifications' could, therefore, have a detrimental effect on the validity of entry level qualifications and lead to extra costs for awarding organisations.

We propose to remove the criteria for entry level qualifications immediately, following this consultation. We see no good reason for retaining these rules.

We do not propose to introduce any other replacement rules or any other changes to how we regulate entry level qualifications at this time.

How to respond to this consultation

2. You can respond to this consultation via any of the methods listed on our website at <https://www.gov.uk/government/consultations/entry-level-qualifications-removing-unnecessary-regulations>.

Please respond by 23:45 on 7 October 2016.

Background

3. Ofqual put the Regulated Qualifications Framework (RQF)¹ in place to provide a single, simple system for cataloguing all qualifications regulated by us. The RQF reflects the levels of previous qualifications frameworks, including entry level. It is like a bookcase in a library, with qualifications indexed by their 'level'

¹ <https://www.gov.uk/government/consultations/after-the-qcf-a-new-qualifications-framework> and the corresponding level descriptors are available here: <https://www.gov.uk/government/publications/qualification-and-component-levels>

and 'size'.² The level of a qualification indicates the difficulty and complexity of the knowledge and skills associated with that qualification. Entry level is the first and lowest level of the RQF. It sits beneath level 1, which means that it recognises achievements below that of the lowest grades at GCSE.

4. Entry level recognises achievements at three sub-levels: 1, 2 and 3, with 3 being the highest. The level descriptors set out the achievements that are recognised at each of the three sub-levels of entry level. For entry 3 and entry 2 this is in the form of descriptions of the types of knowledge and skills associated with performance at that level. The entry 1 descriptors are based on a continuum of achievement which can be used to track and recognise progress towards the achievement of student-centred targets.
5. There are numerous qualifications available at entry level, taken by many students. There are currently just under 2500 regulated entry level qualifications and nearly one million awards of these qualifications are made each year. Further detail on numbers of qualifications and awards is set out in Annex A.
6. All the awarding organisations we regulate must meet certain rules, for all the regulated qualifications they offer. These are set out in the [General Conditions of Recognition](#). We also publish [guidance to the General Conditions of Recognition](#), designed to help awarding organisations understand how to comply with our requirements.
7. 'Criteria for entry level qualifications' was published by us separately from the General Conditions in 2011, having been adopted from our predecessor regulator, the QCA. The original requirements were designed for a different regulatory framework.
8. We use a range of tools to gain assurance that awarding organisations are meeting our requirements at the design, development, delivery and review stages, and are therefore delivering sufficiently valid qualifications. There is more information about our regulatory approach here: <https://www.gov.uk/government/publications/ofquals-regulatory-strategy-statement>
9. For some qualifications, for example GCSEs, AS and A levels, we publish additional regulatory requirements to reflect the policy intent, purpose and content of these qualifications. These include expectations about, for example, how they are graded, when exams must be taken and how we expect them to

²

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/461298/RQF_Bookcase.pdf

be assessed. Given the wide range of purposes across all regulated qualifications at entry level, we believe that applying additional regulatory specifically for qualifications at entry level is no longer appropriate.

Our proposal

10. Our proposal is to remove the entry level criteria and regulate entry level qualifications using the General Conditions of Recognition only. Annex B shows the regulations that we would remove by doing this. We also show in this annex where other identical or very similar requirements would remain in place and where this would result in the removal of rules. We set out in the analysis below (and in detail in Annex B) that we believe the regulations we propose to remove constrain qualification design or delivery and may cause qualifications to be less valid in assessing students' achievements than they otherwise might be.
11. In most cases the General Conditions contain requirements that match those in the entry level criteria. Removing the entry level criteria will simplify our regulation and avoid unnecessary regulatory burden on awarding organisations by reducing the number of different regulations with which they need to comply. In most areas, however, the regulatory expectations for qualifications at entry level will not change significantly. For example, we will still expect that entry level qualifications are reported at one of three sub-levels and that the qualifications are designed to support a clear purpose.
12. Some of the entry level criteria prescribe how awarding organisations design and assess their entry level qualifications. For example, the criteria specify that entry level qualifications must have either a minimum amount of external assessment of 50% for national curriculum subjects or 40% for all other subjects³. We are concerned that such requirements might not necessarily lead to the most valid qualifications. The General Conditions require awarding organisations to develop valid qualifications. Removing the entry level criteria will allow awarding organisations to decide how best to achieve this. The General Conditions also require awarding organisations to consider the purpose of their qualification and users' requirements as they justify the design decisions they make.
13. When we impose qualification design rules, we consider the qualification's purpose and its subject content. Blanket rules that apply to all qualifications at a given level do not allow for such a tailored approach. There may be entry level qualifications for which external assessment should be a lower percentage than the currently prescribed minimums, as there have been at GCSE and A level.

³ External assessment is defined in annex B

This is because high levels of external assessment might not allow awarding organisations to most effectively and efficiently assess skills that are important in particular subjects. For example, we decided, in light of the content for GCSE art and design, that it should be assessed entirely through non-exam assessment. The current regulations would prohibit a similar approach at entry level.

14. The entry level criteria also prescribe that, for national curriculum subjects, the content of entry level qualifications be consistent with Department for Education published programmes of study⁴. We believe this regulatory requirement is no longer needed. When the criteria were put in place, GCSEs were largely based on the statutory programmes of study. In contrast, reformed GCSEs have new subject content requirements which are set out separately from the national curriculum. If we remove the criteria, awarding organisations will be better able to use these subject content requirements in the design of their entry level qualifications where they aim to support co-teaching and progression to GCSEs. Our existing regulations already require awarding organisations to set out the objectives for their qualifications and be able to show how they have designed their qualifications to meet them.
15. This means that if, for example, an awarding organisation designs an entry level qualification to support progression to a GCSE, we will expect them to be able to show how this is the case. We believe our existing regulations are sufficient in this area, particularly because the appropriate relationship between the qualification and subject content could vary between different subjects. It may also be appropriate for entry level qualifications in these subject areas to be based on content that do not relate to that in place for GCSEs, for example if they are aimed at adults and not designed to support progression to GCSEs.
16. The entry level criteria include requirements about progression, including to other specific qualifications. It is important that awarding organisations consider and specify the objective of their qualifications and how they benefit students. This is required by the General Conditions. But we do not wish to preclude the development of entry level qualifications that are valuable in their own right.
17. Annex B sets out a full analysis of the impact that removing the criteria would have. It shows that, other than in the areas described above, where we believe that removing specific requirements is necessary for the effective regulation of these qualifications, in all other cases there would be no significant impact from

⁴ Entry level religious studies qualifications must reflect statutory requirements in this area

the removal of these rules as they duplicate others we have in place. It is on this basis that we think these criteria are no longer needed.

18. If we remove these entry level regulations, awarding organisations may choose to develop new qualifications if they think these will better meet users' needs. Where these qualifications are successors to less effective qualifications developed to meet the requirements of the current 'Criteria for entry level qualifications' we would expect the old qualifications to be withdrawn once the last students complete them. Therefore, we would not expect these proposals to result in a long-term or significant increase in the overall number of entry level qualifications. In line with the government's recent Post 16 Skills Plan⁵, and the concerns it raises about how the overall number of qualifications can cause confusion, we will keep the number of entry level qualifications under review.

Functional Skills qualifications at entry level

19. Functional Skills qualifications are currently being reformed. There is more information about the reforms here: <http://www.et-foundation.co.uk/research/maths-and-english-functional-skills-reform-programme/>.
20. Ofqual has a separate set of regulations for Functional Skills qualifications. These regulations are being reviewed as part of the Functional Skills reform. Entry level Functional Skills qualifications are required to meet the functional requirements [https://www.gov.uk/government/collections/functional-skills-qualifications- requirements](https://www.gov.uk/government/collections/functional-skills-qualifications-requirements). Any changes to these requirements would be subject to consultation.
21. The changes proposed in this consultation, therefore, will have no impact on any Functional Skills qualifications.

⁵ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/536043/Post-16_Skills_Plan.pdf

Equality Impact

22. We are subject to the public sector equality duty. We have set out in Annex C how this duty interacts with our statutory objectives and other duties.
23. Our proposal is to remove regulatory requirements and we do not propose replacing them with any new regulations, or change the way that we regulate these qualifications.
24. Awarding organisations may use this opportunity to review their existing qualifications and make changes that were previously prohibited. Awarding organisations may also decide to introduce new qualifications that the regulations previously prevented them from developing. These may better meet the needs of students and other users. If awarding organisations offer new qualifications or improve their current assessments, this may benefit a range of students, including those who share particular protected characteristics.
25. In Annex A, we set out the numbers of students currently taking entry level qualifications and we considered whether qualifications at entry level are used disproportionately by students who share particular protected characteristics. Our analysis of the National Pupil Database suggests that entry level qualifications are taken by relatively higher proportions of students with a special educational need than other qualifications at higher levels⁶. Our analysis showed that for most entry level qualifications in GCSE subjects, between 60% and 90% of the cohort had a recorded special education need. It may be that some of these students are disabled and it could be that these changes particularly benefit these students if awarding organisations offer qualifications they did not offer previously or make improvements to the assessments in those they already offer.
26. We also considered whether removing the criteria might disadvantage students who share particular protected characteristics. As noted in paragraph 11, the current rules we propose to remove are largely a duplicate of our expectations for all regulated qualifications and so in these instances we judge no protection is being removed.
27. We propose to remove the requirement in section 4.5 of the Criteria that at least 40% or 50% of tasks are externally set or validated, and externally marked or moderated. This requirement is not covered by our expectations under the General Conditions and the removal is deliberate. We do not believe such a requirement is needed. We expect that awarding organisations, freed from this

⁶ Our analysis considered statements, early years action plans (including action plan plus), SEN support and Education Health and Care plans as indicators of SEN.

constraint, would be better able to consider the assessment arrangements for each of their entry level qualifications. We will continue to expect awarding organisations to be accountable for their assessment decisions in line with the General Conditions.

28. Overall, we believe these changes are likely to lead to more valid qualifications and the changes we propose, removing unnecessary restrictions on the design of qualifications, will benefit all users as awarding organisations are more able to meet the needs of different students.

Annex A: Currently regulated entry level qualifications

1. Ofqual currently regulates 2492⁷ entry level qualifications from across 52 different Awarding organisations. Within our regulatory framework we have divided entry level into 3 sub levels, with entry level 1 being the lowest and entry level 3 the highest. Entry level 3 immediately precedes level 1 on the framework. Within the 2492 qualifications 521 are entry level 1, 636 are entry level 2, 1232 are entry level 3 and 103 cover all 3 of the entry levels in one qualification.
2. The 2492 entry level qualifications we currently regulate are taken by almost one million students each year. There are some noteworthy trends:⁸
 - a. The number of certificated qualifications at entry level has risen from 665,600 in 2009/10 to 979,400 in 2014/15 (the last date for which we have verified data)
 - b. But within this the number of achievements against qualifications closely aligned to GCSEs has fallen from 102,500 in 2012/13 to 73,000 in 2014/15.

⁷ Ofqual register of regulated qualifications accessed on 1 August 2016

⁸ Taken from <https://www.gov.uk/government/statistics/annual-qualifications-market-report-academic-year-201314>

Annex B: Mapping of the entry level criteria against related General Conditions of Recognition

Current entry level criteria requirement	Arrangements under General Conditions of Recognition
Entry level qualifications must: ⁹	
3.1 be designed to facilitate learning in practical situations which motivate candidates and are relevant to adult life;	No change in expectation. The General Conditions require qualifications to have a clear objective that leads to benefit for the learners who complete the qualification (General Condition E1)
3.2 enable attainment to be reported at one or more of the sub-levels: entry 1, entry 2 or entry 3, where entry 3 is the highest outcome;	No change in expectation. The General Conditions require qualifications to include the qualification level in the title and on the certificate (General Conditions E2.1b and I3.2b). Our published level descriptors set out the hierarchy of the entry levels, which are the same as in the entry level criteria.
3.3 align entry 1, entry 2 and/or entry 3 with the standards specified by the regulators;	No change in expectation. Our published level descriptors set out the hierarchy of the entry levels.
3.4 be consistent with statutory requirements as follows:	
3.4.1 for National Curriculum subjects, with the relevant statutory programmes of study for the subjects;	Change in expectation. By removing the entry level criteria this requirement would no longer exist as

⁹ Reference numbers in this column relate to the relevant line of the Criteria for entry level qualifications. These are available in full at Annex B

	<p>there is no equivalent expectation under the general conditions.</p> <p>The number and nature of national curriculum programmes of study have changed in the last 5 years. Fewer subjects now have a Department for Education published programme of study and fewer schools are required to follow them. This change will enable awarding organisations to design their qualifications to provide progression to new, reformed GCSE qualifications across the full range of subjects. Removing the requirements will not prevent awarding organisations from offering qualifications that follow a published programme of study if that is what users want. And where a specified purpose of a qualification is to support progression on to other existing qualifications awarding organisations need to design with that purpose in mind. If, for example, an awarding organisation designs an entry level qualification to support progression to a GCSE, we will expect them to be able to show how this is the case (Condition E1.2)</p> <p>Removing these requirements would not change any statutory requirements on schools or colleges in relation to the national curriculum.</p>
<p>3.4.2 for religious education and religious studies, with the statutory requirements appropriate to the age of the candidates;</p>	<p>Change in expectation.</p> <p>By removing the entry level criteria this requirement would no longer exist as there is no equivalent expectation under the general conditions. As described above for national curriculum subjects, this will not prevent awarding organisations designing qualifications to meet statutory requirements for religious</p>

	<p>education that is what users want. If awarding organisations do claim to do this, we will expect them to be able to show how this is the case (Condition E1.2)</p> <p>Removal of these requirements on entry level qualifications does not change any statutory requirements on schools or colleges in relation to religious education.</p>
<p>3.5 provide a basis of progression to other relevant qualifications:</p> <p>3.5.1 for literacy, numeracy and information technology, to corresponding key skills, GCSEs and other relevant qualifications;</p> <p>3.5.2 for national curriculum subjects, religious education and religious studies, to corresponding GCSEs and other relevant qualifications;</p> <p>3.5.3 for other areas of learning, to relevant qualifications at, and beyond level 1.</p>	<p>Change in expectation.</p> <p>The current criteria require entry level qualifications to support progression to other qualifications. While that will remain an objective for many of these qualifications we would not want to rule out the possibility that entry level qualifications could be developed as valuable end points in their own right, without needing to be aligned to another qualification where that is not the most appropriate approach.</p> <p>Importantly when an awarding organisation is developing a qualification to provide progression to another qualification or further study it will need to carefully consider the approach to content and assessment to support that progression, including exposing students to similar styles of learning and assessment where appropriate. See also 4.5 below</p>
Assessment arrangements for entry level qualifications must:	
4.1 ensure that the range of assessment methods proposed for each of the sub-levels, entry 1, entry 2 and entry 3, enable	<p>No change in expectation.</p> <p>We require all regulated qualifications to use assessment methods that are fit for</p>

candidates to appropriately demonstrate their achievement	purpose and allow achievement to be demonstrated (General Condition E4.2)
4.2 involve practical and/or oral, and/or written work as appropriate to the area of learning;	No change in expectation. We require all regulated qualifications to use the most appropriate assessment methods and this will always need to include consideration of the subject area. (General Condition D1)
4.3 be capable of use in a range of settings;	No Change in expectation. All qualifications must consider the manageability of the assessment both for the student and the centres/providers intended to deliver it. (General Condition D1.1 and D1.2d). We expect this to result in qualifications capable of being used in an appropriate range of settings.
4.4 require candidates to generate evidence of working independently, allowing for reasonable adjustments as set out in the General Conditions of Recognition (G6)	No change in expectation. This requirement already references existing Condition G6.
4.5 include tasks that are externally set or validated, externally marked or moderated, and conducted under supervised and specified conditions; 4.6 require that such tasks contribute at least: 4.6.1 50% to the overall award in the case of National Curriculum subjects: literacy, numeracy and information technology; 4.6.2 40% to the overall award in other cases;	Change in expectation. There is no requirement in the General Conditions for a specified proportion of assessment to be undertaken under external or examined conditions. Where we have specified the amounts of exam assessment for GCSEs and A levels this has been at a subject level, taking account of commonly used subject content, careful consideration of the qualification's purpose and to protect validity. We do not think it is appropriate for us to require these existing minimums any longer across all subjects at entry level. Where qualifications are intended to help students progress on to qualifications

	<p>with significant external assessment elements awarding organisations will need to think carefully about their assessment design so that students are sufficiently prepared for subsequent qualifications.</p> <p>Although this is a change in our expectation the General Conditions include provisions about the authentication of students' work (E4.2 (e) and G9) and assessment being under required conditions (G8), as well as the need for consistent marking (H1) and moderation (H2)</p>
4.7 require that any end-of-unit or terminal assessment, whether externally or internally set, is conducted under supervised and specified conditions;	<p>No change in expectation.</p> <p>We require all regulated awarding organisations to specify appropriate assessment methods and this will always need to include consideration of the subject area. (General Conditions D1 and E4)</p>
4.8 specify arrangements for re-tests.	<p>No change in expectation.</p> <p>The General Conditions require awarding organisations to be clear about their assessment arrangements and this to be published in the qualification specification. (General Condition E3.2G)</p>
5. Attainment must be reported at one or more of the sub-levels entry 1, entry 2 or entry 3, where entry 3 is the highest outcome.	<p>No change in expectation.</p> <p>As noted above, our published level descriptors set out the hierarchy of the entry level achievement and qualification outcomes must be reported against them.</p>

Box 1 – What does external assessment mean?

There is no regulatory definition of external assessment within the Criteria for entry level qualifications and it is not a term that Ofqual currently defines or uses elsewhere. The general understanding of this term is an assessment which is separate and external to the person or institution providing a course or training leading to the relevant qualification. In the context of a regulated qualification it means that the assessment task is set by the awarding organisation which also specifies the conditions under which the assessment is to be taken. Any marking or assessment judgements will be undertaken directly by the awarding organisation and not by the school, college or training provider.

Annex C: Ofqual's role, objectives and duties

Our statutory objectives include the qualifications standards objective, which is to secure that the qualifications we regulate:

- (a) give a reliable indication of knowledge, skills and understanding; and
- (b) indicate:
 - (i) a consistent level of attainment (including over time) between comparable regulated qualifications; and
 - (ii) a consistent level of attainment (but not over time) between qualifications we regulate and comparable qualifications (including those awarded outside of the UK) that we do not regulate.

We must therefore regulate so that qualifications properly differentiate between students who have demonstrated that they have the knowledge, skills and understanding required to attain the qualification and those who have not.

We also have a duty under the Apprenticeship, Skills, Children and Learning Act 2009 to have regard to the reasonable requirements of relevant students, including those with special educational needs and disabilities, of employers and of the higher education sector, among others, and to aspects of government policy when so directed by the Secretary of State. As a public body we are subject to the public sector equality duty 23. This duty requires us to have due regard to the need to:

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited under the Equality Act 2010;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The exam boards that design, deliver and award GCSEs, AS and A levels are required by the Equality Act, among other things, to make reasonable adjustments for disabled people taking their qualifications, except where we have specified that such adjustments should not be made.

When we decide whether such adjustments should not be made, we must have regard to:

- (a) the need to minimise the extent to which disabled persons are disadvantaged in attaining the qualification because of their disabilities;
- (b) the need to secure that the qualification gives a reliable indication of the knowledge, skills and understanding of a person upon whom it is conferred; and
- (c) the need to maintain public confidence in the qualification.

Legislation therefore sets out a framework within which we must operate. We are subject to a number of duties and we must aim to achieve a number of objectives. These different duties and objectives can, from time to time, conflict with each other. For example, if we regulate to secure that a qualification gives a reliable indication of a student's knowledge, skills and understanding, a student who has not been able to demonstrate the required knowledge, skills and/or understanding will not be awarded the qualification. A person may find it more difficult, or impossible, to demonstrate the required knowledge, skills and/or understanding because they have a protected characteristic. This could put them at a disadvantage relative to others who have been awarded the qualification. It is not always possible for us to regulate so that we can both secure that qualifications give a reliable indication of knowledge, skills and understanding, and advance equality between people who share a protected characteristic and those who do not. We must review all the available evidence and actively consider all the available options before coming to a final, rational decision.

Qualifications cannot be used to mitigate inequalities or unfairness in the education system or in society more widely than might affect, for example, students' preparedness to take the qualification and the assessments within it. While a wide range of factors can have an impact on a student's ability to achieve a particular mark in an assessment, our influence is limited to the way the qualification is designed and assessed.

We require the exam boards to design qualifications to give a reliable indication of the knowledge, skills and understanding of those on whom they are conferred. We also require the exam boards to avoid, where possible, features of a qualification that could, without justification, make a qualification more difficult for a student to achieve because they have a particular protected characteristic. We require exam boards to monitor whether any features of their qualifications have this effect.

In setting the overall framework within which exam boards will design, assess and award the reformed GCSEs, AS and A levels, we want to understand the possible impacts of the proposals on persons who share a protected characteristic.

The protected characteristics under the Equality Act 2010 are:

- Age

- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion and belief
- Sex
- Sexual orientation.

It should be noted that with respect to the public sector equality duty under section 149 of the 2010 Act, we are not required to have due regard to impacts on those who are married or in a civil partnership.

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Office of Qualifications and Examinations Regulation

Spring Place
Coventry Business Park
Herald Avenue
Coventry CV5 6UB

Telephone 0300 303 3344
Textphone 0300 303 3345
Helpline 0300 303 3346